

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

NATHAN DICKEY,

Plaintiff,

v.

No. CV 20-656 JB/CG

CURRY COUNTY ADULT  
DETENTION CENTER,

Defendant.

**ORDER EXTENDING PAYMENT DEADLINE**

**THIS MATTER** is before the Court on Plaintiff Javier Jimenez’s Motion to Reconsider the Order Granting Leave to Proceed *In Forma Pauperis* (the “Motion”), (Doc. 6). In that Order, (Doc. 5), the Court set a deadline of September 27, 2020, to make an initial partial payment of \$46.73. *Id.* The payment is required by statute, as Plaintiff filed a civil complaint while incarcerated. See 28 U.S.C. § 1915(b)(1). The amount represents “20 percent of the greater of—(A) the average monthly deposits to the prisoner’s account; or (B) the average monthly balance in the prisoner’s account for the 6-month period immediately preceding the filing of the complaint . . .” *Id.*

In his Motion, Plaintiff states he cannot afford to pay any amount because he has been incarcerated since November of 2019. (Doc. 6 at 1). The Motion does not elaborate further, or contest the prior determination regarding his income, aside from stating his family is unable to provide much help. In enacting the *in forma pauperis* statute, Congress determined prisoners must “bear some marginal cost for each legal activity” and “feel the deterrent effect created by liability for filing fees.” *Cosby v. Meadors*, 351 F.3d 1324, 1327 (10th Cir. 2003) (quotations omitted). “[W]hen a prisoner

has sufficient income to pay a monthly partial filing fee and instead spends his money on [other] amenities” such as “the prison canteen,” the Court cannot excuse “the failing to make the required partial payments.” *Id.* Accordingly, the Court shall extend the deadline to make an initial partial payment to October 27, 2020, rather than excusing it entirely. If Plaintiff fails to timely submit the \$46.73 payment, the Court will dismiss this case without further notice.

**IT IS ORDERED** that the Motion to Reconsider, (Doc. 6), is **DENIED IN PART**, and the deadline for Plaintiff to make his **\$46.73** partial payment is extended through **October 27, 2020**.

**IT IS SO ORDERED.**

  
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THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE